

P/746-7

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Frank Henglein, et al.

Serial No.: 10/584,691

Filed: May 22, 2007

Confirmation No.: 9420

Date: October 5, 2009

Group Art Unit: 1796

Examiner: Anthony H. Sheh

For: METAL PIGMENTS COMPRISING A CROSS-LINKABLE BINDING AGENT COATING, COATING COMPOSITION, METHOD FOR THE PRODUCTION OF COATED METAL PIGMENTS AND USE THEREOF

**VIA FACSIMILE: 571-273-0459**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Attention: Rafael Bacares - PCT Legal Administration

**PETITION UNDER 37 C.F.R. § 1.182 TO CORRECT FILING DATE**

Sir:

This is a petition to amend the filing date of the above-captioned application from May 22, 2007 to August 16, 2006. This petition is not specifically provided for elsewhere in 37 C.F.R., and is therefore filed pursuant to 37 C.F.R. § 1.182. No fee is believed due as this time as the necessary correction is due to what is believed to be an error at least partly on the part of the Patent and Trademark Office.

However, in the event a fee is due or if any additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account No. 15-0700.

**REMARKS**

The instant application was initially transmitted to the Patent and Trademark Office ("PTO") on June 23, 2006. The application was transmitted under 35 U.S.C. 371 in the English language. The application was transmitted with an unexecuted declaration. Applicant's undersigned counsel filed an executed declaration August 16, 2006 (copy enclosed) with the Patent and Trademark Office. In the header of the August 16<sup>th</sup> submission, two digits in the serial no. were accidentally transposed (*i.e.*, the serial no. was written as 10/548,691 instead of 10/584,691), but all of the other information pertaining to the above-identified application was correct. The submission was, nevertheless, applied to an incorrect application, notwithstanding

that the information contained in the header of the submission did not match that for the subject application to which it was applied, (except for the serial no with two digits transposed, as indicated above). On March 21, 2007, notwithstanding that the applicants' had previously filed the declaration, a Notification of Missing Requirements was issued by the PTO with a due date of May 21, 2007 (copy enclosed). On May 17, 2007, a response was filed to the Notice (copy enclosed) including a copy of the submission filed on August 16, 2006. In the response to Missing Requirements a copy of the Notification of Missing Requirements from the PTO was also submitted which correctly set forth the serial no. of the application. The PTO charged applicants' representatives' deposit account no. 15-0700 \$130 for the declaration fee although it had already been paid via check no. 25542 (copy enclosed) on August 16, 2006.

On July 9, a status inquiry letter was filed requesting the status of the application. While awaiting a response to the status inquiry letter from the PTO, applicants' representatives discovered the Notification of Abandonment (copy enclosed) while searching the status of the application in PAIR on the PTO web-site. The Notification of abandonment was never received by mail from the PTO. On October 30, 2008, applicants filed a "Petition to Set Aside Notice of Abandonment" (copy enclosed). The Petition was granted on February 17, 2009 (copy enclosed). The funds applied to the incorrect application no 10/548,691 have since been recovered by the PTO.

Copies of all of the documents relating to this matter are enclosed.

Grant of this petition is kindly solicited.

Respectfully submitted,



Mark A. Farley  
Registration No.: 33,170  
OSTROLENK FABER LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Telephone: (212) 382-0700

MAF:stb

Enclosures

17 FEB 2009

UNITED STATES PATENT and TRADEMARK OFFICE



COMMISSIONER FOR PATENTS  
 UNITED STATES PATENT AND TRADEMARK OFFICE  
 P.O. Box 1450  
 ALEXANDRIA, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

OSTROLENK, FABER, GERB &  
 SOFFEN, LLP  
 1180 Avenue of the Americas  
 New York, New York 10036-8403

In re Application of  
 Frank HENGLEIN et al  
 Application No.: 10/584,691  
 PCT No.: PCT/EP04/14663  
 Filing Date: 23 December 2004  
 Priority Date: 21 July 2004  
 Attorney Docket No.: P/746-7  
 For: METAL PIGMENTS COMPRISING ...  
 COATING AND USE THEREOF

## DECISION ON

## PETITION UNDER

37 CFR 1.181

This decision is in response to applicants' "PETITION TO SET ASIDE NOTICE OF ABANDONMENT," which is being treated as a petition under 37 CFR 1.181 filed on 30 October 2008, requesting acceptance of a copy of the Declaration submitted as filed in the USPTO on 22 May 2007. Applicants have submitted, *inter alia*, a copy of the 22 May 2007 PTO stamped itemized postcard receipt.

BACKGROUND

On 23 June 2006, applicants filed a Transmittal letter for entry into the national stage in the United States Patent and Trademark Office (USPTO), which was accompanied by, the basic national fee. No executed declaration or oath was filed at such time.

On 21 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by the International application number and international filing date .. is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68." The notice indicated that the items must be submitted within two months from date of mailing or by 32 months from the priority date of the application, in order to avoid abandonment of the national stage application.

On 26 June 2008, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 3/21/2007 within the time period set therein.

On 22 August 2008, the USPTO mailed applicant a communication informing applicant that the application was abandoned.

Application No.: 10/584,691

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In response to the "NOTICE OF ABANDONMENT" mailed on 26 June 2008 and the communication on 22 August 2008, petitioner submitted on 30 October 2008 the instant petition requesting withdrawal of the "Notice of Abandonment." In support of the request, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of 22 May 2007. The response is timely with an extension of time of one month because it was after the time period allocated in the Notice.

### DISCUSSION

Petitioner's present petition accompanied by a copy of the following document, filed purportedly with the USPTO as indicated in the stamped postcard:

- (1) Response to Notification of Missing Requirements (Executed Declaration and Power of Attorney)

The postcard lists the above item and bears a USPTO date of stamp as 22 May 2007.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Petitioner's postcard is accepted as *prima facie* that a Declaration was timely deposited with the U.S. Patent and Trademark Office on 22 May 2007.

Accordingly, the date of receipt for the Declaration is 22 May 2007. Applicants are being charged one month extension fee of \$130.00 to Deposit Account No.: 15-0700 because the executed declaration was received after the two month period allocated in the Notice.

As a result, the Notice of Abandonment (Form PCT/DO/EO/909) mailed on 26 June 2008 was erroneous.

### CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The NOTICE OF ABANDONMENT mailed on 26 June 2008 has been **VACATED**.

This application is being forwarded to the Office of Patent Application Processing (OPAP) for continue processing.

  
Rafael Bacares  
PCT Legal Examiner  
PCT Legal Office  
Telephone: (571) 272-3276  
Facsimile: (571) 273-0459

P/746-7

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Frank HENGLEIN, *et al.*

Date: October 30, 2008

Serial No.: 10/584,691

International Application No.: PCT/EP2004/14663

International Filing Date: December 23, 2004

For: METAL PIGMENTS COMPRISING A CROSS-LINKABLE BINDING AGENT COATING COMPOSITION, METHOD FOR THE PRODUCTION OF COATED METAL PIGMENTS AND USE THEREOF

---

VIA EFS-WEB  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO SET ASIDE NOTICE OF ABANDONMENT**

Sir:

In response to a Status Inquiry Letter filed July 14, 2008 by applicants' representatives concerning the above-identified application, a Communication dated August 22, 2008 was received from the Patent and Trademark Office. The Communication stated that the application was deemed by the Office to be abandoned due to an alleged failure to timely file a proper reply to a "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated /Elected Office (DO/EO/US) (Form PCT/DO/EO/905" mailed 21 March 2007. Provided as attachments to the Office Communication were a copy of the Form PCT/DO/EO/905 together with a "Notification of Abandonment" (Form PCT/DO/EO/909) mailed by the Office on 26 June 2008. A copy of the August 22, 2008 Office Communication (with attachments) is provided herewith as Attachment A to this Petition.

Upon receipt of the August 22<sup>nd</sup> Communication, we examined our file concerning this matter and found that the "Notification of Abandonment" dated June 26, 2008 from the Patent Office was never received at our office. Thus, the 22 August 2008 Communication was the first notification

received by us informing us that the Patent and Trademark Office deemed the application to be abandoned. The Notice of Abandonment is in error for the reasons set forth below.

Following receipt of the Notice of Missing Requirements, to which a response was due by May 21, 2007, applicants' representatives mailed to the Patent and Trademark Office a "Response to Notification of Missing Requirements" on May 17, 2007, i.e., prior to the due date for response. That response was received by the Patent Office on May 22, 2007. A copy of applicants' response dated and mailed on May 17, 2007 is enclosed as Attachment B to this Petition. Also enclosed, as Attachment C hereto, is a copy of both sides of the return receipt acknowledgment postcard that was date stamped by the Patent and Trademark Office on 22 May, 2007 acknowledging receipt of applicants' response. The stamped postcard was thereafter received at our office on May 30, 2007 as indicated by the date stamp on the front of the card.

Accordingly, since the Response to Notification of Missing Requirements was timely filed and received by the U.S. Patent and Trademark Office, the holding of abandonment of this application should be set aside.

No fee accompanies this Petition because the U.S. Patent and Trademark Office has committed an error and the Notification of Abandonment should be set aside. In the event the actual fee is greater than the payment submitted or is inadvertently not enclosed, or if any additional fee due during the prosecution of this application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account No. 15-0700.

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY  
THROUGH THE PATENT AND  
TRADEMARK OFFICE EFS FILING  
SYSTEM ON October 30, 2008.

Respectfully submitted,

  
\_\_\_\_\_  
Mark A. Farley  
Registration No.: 33,170  
OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Telephone: (212) 382-0700

MAF:stb

00976196.1

## ATTACHMENT A



## United States Patent and Trademark Office

22 AUG 2008

Commissioner for Patents  
 United States Patent and Trademark Office  
 P.O. Box 1450  
 Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Robert C. Faber  
 OSTROLENK, FABER, GERB & SOFFEN  
 1180 Avenue of the Americas  
 New York, NY 10036-8403

In re Application of  
 FRANK HENGLEIN et al  
 Application No.: 10/584,691  
 PCT No.: PCT/EP04/14663  
 Int. Filing Date: 23 December 2004  
 Attorney's Docket No.: P/746-7  
 For: METAL PIGMENTS COMPRISING A CROSS-LINKABLE BINDING AGENT COATING, COATING COMPOSITION, METHOD FOR THE PRODUCTION OF COATED METAL PIGMENTS AND USE THEREOF

QFCS FILE NO. P/746-7

REF MAP

PATENT DRAWINGS

Dear Mr. Faber:

This is in response to your communication filed 14 July 2008 regarding the status of the above captioned application. U.S. application 10/584,691 is abandoned for failure to file a reply to the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) mailed 21 March 2007. A copy of the Form PCT/DO/EO/905 and the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909 mailed 26 June 2008) are attached for your convenience.

Boris Milef  
 PCT Legal Examiner  
 Office of PCT Legal Administration

JSF/BM:jf

Attachment: copy of Forms PCT/DO/EO/905 and  
 PCT/DO/EO/909.

Jenny Fleming  
 Paralegal Specialist  
 Office of PCT Legal Administration

Tel: (571) 272-3284  
 Fax: (571) 273-0459

**COPY**

Page 1 of 2



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Admiral C. COLEMAN FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.	
10/584,691	Frank Henglein	P/746-7	
		INTERNATIONAL APPLICATION NO.	
		PCT/EP04/14663	
		I.A. FILING DATE	PRIORITY DATE
		12/23/2004	12/23/2003
CONFIRMATION NO. 9420			
371 FORMALITIES LETTER			
 OC000000023007015			

Date Mailed: 03/21/2007

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The following items have been submitted by the applicant or the IAB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 06/23/2006
- English Translation of the IA filed on 06/23/2006
- Copy of the International Search Report filed on 06/23/2006
- Copy of IPE Report filed on 06/23/2006
- Copy of Annexes to the IPER filed on 06/23/2006
- English Translation of Annexes to the IPE filed on 06/23/2006
- Preliminary Amendments filed on 06/23/2006
- Information Disclosure Statements filed on 06/23/2006
- Oath or Declaration filed on 06/23/2006
- U.S. Basic National Fees filed on 06/23/2006
- Priority Documents filed on 06/23/2006
- Specification filed on 06/23/2006
- Claims filed on 06/23/2006
- Abstracts filed on 06/23/2006
- Drawings filed on 06/23/2006

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and International filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
  - is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

**SUMMARY OF FEES DUE:**

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Surcharge.

Additionally the following defects have been observed:

- Annexes have not been entered because claims must fall into consecutive order..

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5).

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

VONDA M WALLACE

Telephone: (703) 308-9140 EXT 225

**PART 2 - OFFICE COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/584,691	PCT/EP04/14663	P/746-7

FORM PCT/DO/EO/905 (371 Formalities Notice)



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/584,691	Frank Henglcn	P/746-7
Mark A Farley Ostrolenk Faber Gerb & Soffen 1180 Avenue of the Americas New York, NY 10036-8402		INTERNATIONAL APPLICATION NO.
		PCT/EP2004/014663
I.A. FILING DATE		PRIORITY DATE
12/23/2004		12/23/2003

CONFIRMATION NO. 9420  
 371 ABANDONMENT/TERMINATION  
 LETTER



OC000000030629991

Date Mailed: 06/26/2008

## NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- failure to respond to notice of missing part ( 905) mailed 3/21/07

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

VONDA M WALLACE

Telephone: (703) 308-9140 EXT 225

page 1 of 1

## ATTACHMENT B

Serial No. 10/548,691 Filing Date 5/17/07 OFGS File No. P/746-7  
Title Metal Pigments Consisting of Cross-linked Particles  
First Inventor Frank HENFLEIN Date 5/17/07  
Last Due Date:

The PTO has received:

Patent Application of \_\_\_\_\_  
Pages (including claims & abstract)  
 Declaration or  Designation Sheet  
 Drawings \_\_\_\_\_ Sheet(s)/Fig(s) \_\_\_\_\_ to \_\_\_\_\_  
 Priority Document  
 Small Entity Declaration  
 Assignment & Conveyance Cover Sheet  
 Information Disclosure Statement  
 PTO-1449  
 Amendment  
 Affidavit or Declaration

TM Application  ITU Basis  
 Statement of Use  
 Extension of Time  
 Notice of Appeal  
 Brief  
 Petition  
 Status Request  
 Issue Fee  
 Certificate of Mailing  
 Express Mail No. \_\_\_\_\_

PTO STAMP

Response to Notice of Missing Requirements

Check No. \_\_\_\_\_ for \$ \_\_\_\_\_

Atty/Secy MAF/MS

**COPY**

OFGS File No.: P/746-7

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

Frank HENGLEIN, et al.

Date: May 17, 2007

Serial No.: 10/548,691

International Application No.: PCT/EP2004/014663

International Filing Date: 23 December 2004

For: METAL PIGMENTS COMPRISING A CROSS-LINKABLE BINDING AGENT  
COATING, COATING COMPOSITION, METHOD FOR THE PRODUCTION OF  
COATED METAL PIGMENTS AND USE THEREOF

Mail Stop: Box PCT (DO/EO/US)

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**COPY****RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS**

Sir:

In response to the Notification of Missing Requirements mailed March 21, 2007 (copy enclosed), please be informed that on August 16, 2006, Applicant's Declaration was filed, executed and accompanied by payment of the \$130.00 surcharge. A copy of the prior submission is enclosed. Since this Missing Requirement has been supplied prior to the Notice, no further submission in response to the enclosed Notification is required.

With regard to the additional note in the Notification of a defect that had been observed, namely, that "Annexes have not been entered because claims must fall into consecutive order," it is presumed that this is due to the fact that the English translation of an Annex of the German language International Preliminary Examination Report, consisting of a single page showing an amendment which was entered in the PCT application, was paginated differently than its German original, such that the two pages began at different parts of the Specification, and therefore they did not begin and end with the same claim numbers, giving the appearance that the claims did not fall into consecutive order. This was done in order that the pagination of the single page of

English translation of the Specification would match the original English translation of the Specification before the amendment occurred in the PCT application so that a page-for-page comparison could be performed in the English translation. In fact, the English translation of the Specification does not change the consecutive order of the claim numbers, and the undersigned has had the English translation of the Specification repaginated, incorporating the PCT amendment, producing a single page that exactly matches the page submitted from the German language Annex. That repaginated English translation is enclosed herewith, along with the German language page from the amended PCT application, with the request that the Annex now be entered into the above-identified U.S. national stage application.

In the event the actual fee is greater than the payment submitted or is inadvertently not enclosed or if any additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account #15-0700.

If this communication is filed after the time period had elapsed and no separate Petition is enclosed, the Commissioner of Patents and Trademarks is petitioned, under 37 C.F.R. § 1.136(a), to extend the time for filing a response by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 15-0700.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop: Box PCT (DO/EO/US), Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 17, 2007.

Mark A. Farley

Name of applicant, assignee or  
Registered Representative

Mark A. Farley

Signature

May 17, 2007

Date of Signature

MAF:ns  
Enclosures

00841193.WPD

Respectfully submitted,

**COPY**

Mark A. Farley

Mark A. Farley  
Registration No.: 33,170  
OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Telephone: (212) 382-0700

Page 1 of 2



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
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10/584,691	Frank Henglein	P/746-7
		INTERNATIONAL APPLICATION NO.
		PCT/EP04/14663
IA. FILING DATE	PRIORITY DATE	
12/23/2004	12/23/2003	
CONFIRMATION NO. 9420		
371 FORMALITIES LETTER		
 OC000000023007015		

Mailed: 03/21/2007

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 06/23/2006
- English Translation of the IA filed on 06/23/2006
- Copy of the International Search Report filed on 06/23/2006
- Copy of IPE Report filed on 06/23/2006
- Copy of Annexes to the IPER filed on 06/23/2006
- English Translation of Annexes to the IPE filed on 06/23/2006
- Preliminary Amendments filed on 06/23/2006
- Information Disclosure Statements filed on 06/23/2006
- Oath or Declaration filed on 06/23/2006
- U.S. Basic National Fees filed on 06/23/2006
- Priority Documents filed on 06/23/2006
- Specification filed on 06/23/2006
- Claims filed on 06/23/2006
- Abstracts filed on 06/23/2006
- Drawings filed on 06/23/2006

**COPY**

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
  - is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

Page 2 of 2

- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

**SUMMARY OF FEES DUE:****Total additional fees required for this application is \$130 for a Large Entity:**

- **\$130 Surcharge.**

**Additionally the following defects have been observed:**

- Annexes have not been entered because claims must fall into consecutive order..

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5).

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.

<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

**VONDA M WALLACE**

---

**Telephone: (703) 308-9140 EXT 225**

**PART 1 - ATTORNEY/APPLICANT COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/584,691	PCT/EP04/14663	P/746-7

FORM PCT/DO/EO/905 (371 Formalities Notice)

## **ATTACHMENT C**

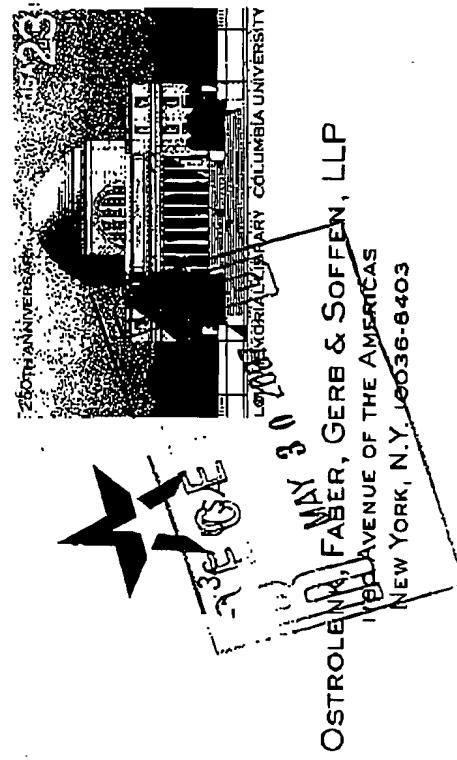
Serial No. 19598691 Filing Date P/946-7  
Title Modular Pigment Container ORIS File No. 156761  
First Inventor Frank H. ENGELEK Date 5/17/02  
The PTO has received:

Patent Application of         TM Application  ITU Basis  
 Pages (Including claims & abstract)  Statement of Use  
 Declaration or  Designation Sheet  Extension of Time  
 Drawings        Sheet(s)        Figs.        to         Notice of Appeal  
 Priority Document  Brief  
 Small Entity Declaration  Petition  
 Assignment & Conveyance Cover Sheet  Status Request  
 Information Disclosure Statement  Issue Fee  
 PTO-1449  Certificate of Mailing  
 Amendment  Express Mail No.         
 Affidavit or Declaration

Response to Notice of Missing Requirements  
 Check No.        for \$         
Attn/Secy MF/AS

IAP6 Rec'd PCT/PTO 22 MAY 2007

COPY



COPY

OFGS File No.: P/746-7

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

Frank HENGLEIN, et al.

Date: August 16, 2006

Serial No.: 10/548,691

International Application No.: PCT/EP2004/014663

International Filing Date: 23 December 2004

For: METAL PIGMENTS COMPRISING A CROSS-LINKABLE BINDING AGENT  
COATING, COATING COMPOSITION, METHOD FOR THE PRODUCTION OF  
COATED METAL PIGMENTS AND USE THEREOF

Mail Stop: Box PCT (DO/EO/US)

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Alexandria, VA 22313-1450

**COPY****SUBMISSION OF DECLARATION**

Sir:

In the absence of a Notification of Missing Requirements under 35 U.S.C. § 371, enclosed herewith is an inventors' Declaration together with our Check No. 25542 for \$130.00 for large entity.

In the event the actual fee is greater than the payment submitted or is inadvertently not enclosed or if any additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account #15-0700.

If this communication is filed after the time period had elapsed and no separate Petition is enclosed, the Commissioner of Patents and Trademarks is petitioned, under 37 C.F.R. §1.136(a), to extend the time for filing a response by the number of months which will avoid abandonment under 37 C.F.R. §1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 15-0700.

**EXPRESS MAIL CERTIFICATE**  
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Dorothy Jenkins  
Name of Person Mailing Correspondence

Signature  
August 16, 2006  
Date of Signature

Respectfully submitted,

Robert C. Faber  
Registration No.: 24,322  
OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Telephone: (212) 382-0700

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UNITED STATES OF AMERICA COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION		OFCS FILE NO. P/746-7																																															
<p>As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that I verify believe that I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named) of the subject matter which is claimed and for which a patent is sought on the invention entitled:</p> <p><b>METAL PIGMENTS COMPRISING A CROSS-LINKABLE BINDING AGENT COATING, COATING COMPOSITION, METHOD FOR THE PRODUCTION OF COATED METAL PIGMENTS AND USE THEREOF</b></p> <p>the specification of which is attached hereto, unless the following box is checked:</p> <p><input type="checkbox"/> was filed on <u>23 December 2004</u> as United States patent Application Number or PCT International patent application number <u>PCT/EP2004/014663</u> and was amended on <u>7 October 2005</u> (if any).</p> <p>I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.</p> <p>I acknowledge the duty to disclose all information known to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56.</p> <p>I hereby claim priority benefits under Title 35, United States Code §119 of any foreign application(s) for patent or inventor's certificate or United States provisional application(s) listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:</p> <table border="1"> <tr> <td colspan="4">Prior Foreign or Provisional Application(s)</td> </tr> <tr> <th>COUNTRY</th> <th>APPLICATION NUMBER</th> <th>DATE OF FILING (day, month, year)</th> <th>PRIORITY CLAIMED UNDER 35 U.S.C. 119</th> </tr> <tr> <td>Germany</td> <td>103 61 437.0</td> <td>23 December 2003</td> <td>YES <input checked="" type="checkbox"/> NO</td> </tr> <tr> <td></td> <td></td> <td></td> <td>YES <input type="checkbox"/> NO</td> </tr> <tr> <td></td> <td></td> <td></td> <td>YES <input type="checkbox"/> NO</td> </tr> </table> <p>I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.</p> <table border="1"> <tr> <th>UNITED STATES APPLICATION NUMBER</th> <th>DATE OF FILING (day, month, year)</th> <th>STATUS (patented, pending, abandoned)</th> </tr> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> </table> <p>I hereby appoint customer no. 2352 OSTROLENK, FABER, GERB &amp; SOFFEN, LLP, and the members of the firm, Samuel H. Weiner - Reg. No. 18,510; Jerome M. Berliner - Reg. No. 18,653; Robert C. Faber - Reg. No. 24,322; Max Moskowitz - Reg. No. 30,576; James A. Fluder - Reg. No. 30,173; William O. Gray, III - Reg. No. 30,944; Louis C. Dujnoch - Reg. No. 30,625, and Douglas A. Miro, as attorneys with full power of substitution and revocation to prosecute this application, to transact all business in the Patent &amp; Trademark Office connected therewith and to receive all correspondence.</p> <p>SEND CORRESPONDENCE TO: OSTROLENK, FABER, GERB &amp; SOFFEN, LLP 1180 AVENUE OF THE AMERICAS NEW YORK, NEW YORK 10036-8403 CUSTOMER NO. 2352 DIRECT TELEPHONE CALLS TO: (212) 382-0700</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <table border="1"> <tr> <td>FULL NAME OF SOLE OR FIRST INVENTOR Frank HENGLER</td> <td>INVENTOR'S SIGNATURE </td> <td>DATE 01.08.2006</td> </tr> <tr> <td>RESIDENCE (City and either State or Foreign Country) Nürnberg, Germany</td> <td></td> <td>COUNTRY OF CITIZENSHIP Germany</td> </tr> <tr> <td>POST OFFICE ADDRESS Virchowstrasse 17, 90409, Nürnberg, Germany</td> <td colspan="2"></td> </tr> <tr> <td>FULL NAME OF SECOND JOINT INVENTOR (if any) Burkhard SCHREIBER</td> <td>INVENTOR'S SIGNATURE </td> <td>DATE 01.08.2006</td> </tr> <tr> <td>RESIDENCE (City and either State or Foreign Country) Hersbruck, Germany</td> <td></td> <td>COUNTRY OF CITIZENSHIP Germany</td> </tr> <tr> <td>POST OFFICE ADDRESS Pommernstrasse 2, 91217, Hersbruck, Germany</td> <td colspan="2"></td> </tr> </table>			Prior Foreign or Provisional Application(s)				COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. 119	Germany	103 61 437.0	23 December 2003	YES <input checked="" type="checkbox"/> NO				YES <input type="checkbox"/> NO				YES <input type="checkbox"/> NO	UNITED STATES APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)							FULL NAME OF SOLE OR FIRST INVENTOR Frank HENGLER	INVENTOR'S SIGNATURE 	DATE 01.08.2006	RESIDENCE (City and either State or Foreign Country) Nürnberg, Germany		COUNTRY OF CITIZENSHIP Germany	POST OFFICE ADDRESS Virchowstrasse 17, 90409, Nürnberg, Germany			FULL NAME OF SECOND JOINT INVENTOR (if any) Burkhard SCHREIBER	INVENTOR'S SIGNATURE 	DATE 01.08.2006	RESIDENCE (City and either State or Foreign Country) Hersbruck, Germany		COUNTRY OF CITIZENSHIP Germany	POST OFFICE ADDRESS Pommernstrasse 2, 91217, Hersbruck, Germany		
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF THIRD JOINT INVENTOR, IF ANY Alexander ALBRECHT		INVENTOR'S SIGNATURE	DATE 01.08.2006
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FULL NAME OF FOURTH JOINT INVENTOR, IF ANY		INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country)		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY		INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country)		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY		INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country)		COUNTRY OF CITIZENSHIP	
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